

## Nance v. EMAGES, et al. - Settlement Demand (Confidential Rule 408 Settlement Communication) [DRAFT]

From: Decker, Adam W. (adecker@taftlaw.com)  
To: frednance@clickservices.org; dthompson@taftlaw.com  
Date: Sunday, May 28, 2023 at 12:18 PM CDT

Dr. Nance,

We received the attached Settlement Demand from Attorney Calvita Frederick on Friday, which was sent on your behalf. Therein, you seek payment of \$300,000 to settle this matter. Defendants respectfully disagree with all of the alleged facts Ms. Frederick recites in the demand letter, which is understandable seeing as she has not been involved in this litigation until now and solely for the purposes of negotiating a potential settlement.

However, I write to you today to express my surprise to see such a large monetary demand after you expressed to me, following your deposition, that you did not expect to receive monetary compensation because of EMAGES' status as a non-profit organization. That conversation seems to be at odds with the demand letter, and the sentiment you expressed to me that you hoped to resolve the EMAGES litigation to instead focus on the U.S. Department of Justice case currently pending in the Northern District of Illinois.

Defendants respectfully reject your proposed settlement of \$300,000. Moreover, I wanted to inform you that we will be filing a motion for discovery sanctions related to your refusal to participate in your deposition in good faith, as the Federal Rules of Civil Procedure require. The sanctions motion will be seeking either the dismissal of your lawsuit with prejudice, compelling you to sit for another deposition where you will be ordered to answer any and all questions asked, and in any event, that you pay Defendants' reasonable attorneys' fees and costs related to preparing for, and attending, your May 8, 2023 deposition. This motion will be filed next week. By informing you of the forthcoming sanctions motion, I do not intend for this to be a "threat" by any means, but rather as a courtesy.

Regardless, Defendants are willing to discuss a reasonable settlement of this matter. The large demand made on your behalf is unreasonable, however. If you care to submit a revised offer that aligns with our earlier discussions, we will entertain it and respond in kind. But we are confident the Court will seriously consider sanctioning your misconduct at the deposition.

I have not included Ms. Frederick here in order to maintain the confidentiality of this communication under Rule 408. You may forward this to her if you wish, but that is entirely your decision.

Have a safe holiday weekend.

Thank you,  
Adam

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